

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13396, of 16th Street Associates, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Paragraph 4101.44 to use all floors of the subject premises as professional offices and for variances from the floor area ratio requirements (Sub-section 4301.1) and the off-street parking requirements (Sub-section 7202.1) in an SP-1 District at the premises 1513 - 16th Street, N.W., (Square 194, Lot 13).

HEARING DATE: December 10, 1980
DECISION DATE: January 7, 1981

FINDINGS OF FACT:

1. The subject property is located on the east side of 16th Street, N.W., between Church Street and P Street in an SP-1 Zone District at premises known as 1513 - 16th Street, N.W. The site is north of Scott Circle.
2. The subject property is rectangular in shape and measures approximately 2,375 square feet in land area. It is improved with a four-story stone row structure and a one story rear addition which occupies approximately eighty percent of the lot.
3. The structure was originally built about 1895 as a single family residence. The structure is in an Historic Landmark District.
4. The property has most recently been utilized by a religious order but no certificate of occupancy has been found. An application for a building permit that was never finalized was found. This application was in approximately 1971.
5. The structure is vacant. The applicant proposes to use all floors of the subject premises as professional offices. The applicant requests a variance of approximately 833 square feet from the FAR requirements of the Zoning Regulations and a variance from two on-site required parking spaces.

6. To the north of the subject site there is a four story brick and stone semi-detached building and garage in the SP-1 District which is used for office purposes. To the east there is a four foot wide public alley followed by the rear yards of row dwellings fronting on Church Street and a paved parking lot further followed by St. Luke's Church at 15th and Church Streets in the R-5-B zone. To the south is a three story semi-detached structure used as a residence, a ten foot wide alley, row dwellings and apartments followed by P Street, across which is the Carnegie Institute of Washington, all in the SP-1 District. To the west is Sixteenth Street, followed by apartments and the Foundry Methodist Church in the SP-1 District.

7. The immediate area of 16th Street from Scott Circle to 16th and Q Streets contains a variety of uses. They range from the National Wildlife Federation building, the Carnegie Institute, the old Jewish Community Center building now used by the University of the District of Columbia, apartment houses and buildings containing professional and non-profit organization offices.

8. The applicant's architect testified that there will be no structural changes made to the exterior of the structure. The fire escape on the front of the building will be removed. The rear addition to the building will be removed since it was attached subsequent to the construction of the main structure and does not possess any architectural or esthetic quality. The architect further testified that the interior of the building will be restored as accurately as possible to the original design. With the removal of the rear addition a small garden will be created for the use of the tenants.

9. The subject area is well served by public transportation including the subway which is a few blocks from the site. The applicant introduced into evidence several Metrobus schedules evidencing the availability of Metrobus services to the subject site.

10. The applicant has no prospective tenant or tenants for the subject building. Any tenants would be limited to those categories specified in Paragraph 4101.44 of the Zoning Regulations.

11. The applicant is requesting a variance from the floor area ratio requirements. The SP-1 District permits a 2.5 FAR for non-residential use. The subject lot consists of 2,375 square feet. This square footage multiplied by 2.5 gives an allowable gross floor area of 5,937.5 square feet. The gross floor area of the premises consists of 6771.24 square feet. Thus, a variance of 833.75 square feet is requested.

12. The applicant testified that the use of the top floors of the subject premises for residential purposes was not practical. The presence of office use on the other floors would create a security problem for all tenants. Also if the rear of the top floor was used for residential purposes, two fire escapes would be required. If the entire top floor was used for residential purposes, then the front fire escape would be eliminated. The applicant argued that dual uses in the same structure would create a hardship on the owner and would not be the best use of the structure. The Board so finds.

13. The property is an interior lot abutted on the east by a four-foot alley, on the west by 16th Street, and on the north by abutting buildings. There is no reasonable method to obtain the parking on this interior lot through the four-foot alley to the rear of the property. The structure was built in 1895 prior to the adoption of the present Zoning Regulations. There is space in the rear yard to accommodate one parking space, but there is no access to it. Parking in the front yard is not a matter-of-right. It would be subject to review by the BZA and the Joint Committee on Landmarks. It would also necessitate a curb cut on 16th Street and the removal of a large tree on public space.

14. The Office of Planning and Development, by report dated December 4, 1980, recommended approval of the special exception and the variance from the off-street parking requirements. The OPD recommended that the variance from the FAR requirements be denied. In its report, OPD stated that there are practical difficulties which prohibit the applicant from complying with the parking regulations, and that although there is limited on-street parking in the area, there is public transportation and commercial lots nearby. The OPD stated that, in its opinion the requested gross floor area variance of 833.75 square feet is not justifiable. The OPD did not find any reasons relating to the property to prevent the design of the interior space to facilitate the mixed office/residential use as intended by the special purpose zone district. Therefore, OPD recommended denial of the FAR variance, in support of city policy of maintaining existing residential units in mixed use zoned areas. For reasons stated below the Board concurs with the recommendations of the OPD as to the special exception and the off-street parking requirements but not as to the FAR variance.

15. Advisory Neighborhood Commission - 2B objected to granting any part of the application. In its written recommendations and at the public hearing the ANC stated that this is a situation in which an applicant is attempting to push office space into property which is quite suitable for residential use. The ANC took the position that, with the housing shortage in the District of Columbia, there is no justification for depriving the city of needed housing by using buildings for offices where residential use is possible. The ANC urged the Board to prevent the SP zone from becoming simply an office zone. Among neighboring properties, 1511, 1520, 1523, and 1530 16th Street are residential. The property at 1515 - 16th Street next door to the subject property, is being remodeled for office use, while 1521 and 1536 - 16th Street are already office buildings. The ANC argued that permission to this applicant to use this property for offices will only encourage other applications along this street for similar use. The ANC argued that if future exceptions are granted, the entire character of this predominantly residential street will be changed. In the opinion of the ANC, this will not constitute the stability which the Zoning Regulations were intended to ensure. As to the FAR variance, the ANC argued that there has been no showing that the physical characteristics of the site would prevent the owners from making residential use out of that portion of the property for which a variance is sought. There is no exceptional or extraordinary situation or condition of the property, as required by the Regulations, which would warrant a variance. The ANC stated that the granting of the variance would set a terrible precedent, as it would justify owners asking for a variance in many similar situations in which there would be no reason why the property could not be used for the purposes allowed by the appropriate Zoning Regulations. The ANC's opposition to the granting of the parking variance followed from its opposition to the use of the property for offices. If such a use is not allowed, no variance from the parking requirements would be necessary. Beyond the question of requirements, the reality of the parking situation concerned the ANC because it expected office use in this building to lead to increased need for parking by those using and visiting the building, to the detriment of the neighborhood.

16. The Dupont Circle Citizens Association, for that same reasons stated by the ANC recommended that the application be denied in its entirety.

17. The Board is required by statute, to give great weight to the issues and concerns of the ANC. In addressing these concerns as well as the identical concerns of the Dupont Circle Citizens Association. The Board finds that the applicant is seeking his remedy through a special exception, not a variance. The applicant has no burden to prove a hardship inherent in the property. The applicant has no burden to prove that the subject property cannot be used for residential purposes. The burden of the applicant is to prove compliance with the requirements of Paragraph 4101.44 of the Zoning Regulations. As to the issue of precedent, the Board has consistently stated that it must and will decide each case on the specific set of facts presented, to determine if a particular application meet the requirements of the Regulations in each specific instance. As to the area variances, the Board will address these issues in its Conclusions of Law.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant is seeking a special exception and two variances. In order to be granted such an exception, the applicant must demonstrate that it has complied with the requirements of Paragraph 4101.44 and Sub-section 8207.2 of the Zoning Regulations. The Board concludes that the applicant has so complied. The use, height, bulk and design are in harmony with existing uses and buildings or neighboring properties. The site is well served by public transportation, and there will be no adverse traffic conditions or other objectionable effects. The Board further concludes that the special exception can be granted as in harmony with the general purpose and intent of the Zoning Regulations and maps and will not tend to affect adversely the use of neighboring property in accordance with said regulations and maps.

As to the variances requested, the Board concludes that these are area variances, the granting of which requires a showing of a practical difficulty inherent in the property itself.

As to the variance from the parking requirements, the Board concludes that the applicant has shown a practical difficulty in the property itself. The Board notes that the subject improvement was built in 1895, occupies eighty percent of the lot and is abutted on the east by a four foot alley which would not allow the passage of an automobile into the property's rear yard. The Board further notes that the building is in a Landmark District and contributes to that district.

It cannot be altered to provide, nor is there any room on the lot to provide, parking. The Board further concludes that the variance can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan.

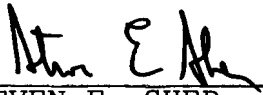
As to the variance from the floor area ratio requirements, the Board concludes that it is minimal. The approximate 833 square feet cannot reasonably be used for residential purposes where it would involve changes in the interior of the structure for exit and entrance purposes. Such structural changes would destroy the integrity of the structure. The Board further notes that the dual use of office purposes and residential purposes in the relatively small structure would create a security problem for all tenants. The Board further concludes that this variance can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zoning plan.

The Board also concludes that it has accorded the great weight to the ANC to which it is entitled. Accordingly, it is ORDERED that the application is GRANTED in its ENTIRETY.

VOTE: 4-1 (John G. Parsons, William F. McIntosh, Connie Fortune , and Douglas J. Patton to GRANT; Charles R. Norris to DENY).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 17 FEB 1981

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.